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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,167	06/26/2003	Casimir R. Kiczek	03-19	8248

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EXAMINER

LOWE, MICHAEL S

ART UNIT PAPER NUMBER

3652

DATE MAILED: 09/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/608,167

Applicant(s)

KICZEK ET AL.

Examiner

M. Scott Lowe

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-14 and 16-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-14 and 16-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/19/06 has been entered.

Drawings

The drawing substitute sheet was received on 6/19/06. These drawing corrections are partially acceptable but item 70 is described in the specification as the "toggle nut assembly" of figure 9 and should be shown there not in figures 2 & 3. The hook embodiment is shown in figure 10 but still is not shown as engaging the rim as claimed in claim 20.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 21 recites the limitation "a vehicle" in lines 1 and 7. For sake of examination it is assumed the second occurrence was meant to be "the vehicle".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8,10-14,17-19,21 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoagland (US 4,492,506).

Re claims 1,11,21 Hoagland teaches a latch assembly adapted for use with a vehicle 12,14 including a tire 12 with a rim 14 with at least one aperture (see figures), the latch assembly comprising, in combination:

a tire carrier having a first flexible member 88 having one end attached to a winch 28 and another end detachably attached to the tire 12;

a second flexible member 20 having one end of the second flexible member 20 directly connected to the vehicle and another end of the second flexible member 20 for connecting to the tire 12;

a locking member 30,32 attached to the second flexible member 20, the locking member for being disposed in the aperture of the tire to detachably connect to the rim 14, the locking member is one of a clamp member 32 and a hook member 30, the locking member and the second flexible member preventing the tire from detaching from the vehicle when the winch fails.

Re claims 2-8,10, Hoagland teaches a locking member with a hook member 32. The details of the clamp member are not required to meet these limitations when a hook member is present.

Re claim 12, Hoagland teaches the second aperture (not numbered) being arcuate and multi-sided and the locking member 32 detachably engaging the rim at the second aperture.

Re claims 13,17, Hoagland teaches the locking member having a clamp member 32 with a latching & eyebolt member 120,122.

Re claim 14, Hoagland teaches the clamp member having a latching member 120,122 and support plate 32.

Re claim 18, Hoagland teaches a hook member 30 for engaging the rim and for disposition in at least one aperture of the rim 14 to detachably secure the tire 12 to the vehicle.

Re claim 19, teaches all materials (especially metals) will make an audible signal when struck (clamped) together to some degree, Hoagland teaches clamping a tire rim between a support plate 32 and latching member 120, 122.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16,20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoagland (US 4,492,506) in view of Marchiori (US 4,969,342).

Re claims 16,20, Hoagland is silent regarding the locking member being engage with the rim through a non-central aperture of the rim. Marchiori teaches placing a locking member 10 in a non-central aperture of the rim to protect from theft. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Hoagland by the general teaching of Marchiori to have the locking member being engage with the rim through a non-central aperture of the rim to protect from theft and for convenience.

Conclusion

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 6/19/06 regarding Hoagland have been fully considered but they are not persuasive.

As shown in the above rejections, Hoagland does teach a second flexible member 20 attached at one end directly to a vehicle and at another end to a locking

member 30,32 as claimed. It is also noted that applicant's drawings show at least one intermediate structure 21 between the flexible member 25 and the vehicle and also an intermediate bracket (not numbered) flexible member 25 and the vehicle.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Iida (JP357047259A) teaches a similar device with a winch and 2 flexible members.

Frantz (US 6,532,780) teaches a similar device with 2 flexible members.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Scott Lowe whose telephone number is (571) 272-6929. The examiner can normally be reached on 6:30am-4:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



EILEEN D. LILLIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

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